

**WILLIAMSON COUNTY ELECTION COMMISSION
(WCEC)**

**FEBRUARY 24, 2022, SIGNED MINUTES WITH
ATTACHMENTS**

A handwritten signature in blue ink, appearing to read 'WBG', is positioned above the name 'Wanda Bruce Graham'.

**WANDA BRUCE GRAHAM
SECRETARY, WCEC**

WILLIAMSON COUNTY ELECTION COMMISSION
Thursday, February 24, 2022
APPROVED MINUTES

The Williamson County Election Commission (WCEC) met in person on Thursday, February 24, 2022, at the Williamson County Administrative Complex, 1320 West Main Street, County Conference Room, Franklin, Tennessee. Chair, Robert Brown called the meeting to order at 4:05 p.m. The attached agenda was followed. A roll call of members was taken, and the following members were present: Robert D. Brown, Chair; Susan Kimberley "Kim" Henke, Member; Phyllis Streiff, Member; Jonathan Duda, Member; Wanda Bruce Graham, Secretary and Chad Gray, Administrator of Elections.

Old Business:

- (1) Approve the minutes from the February 16, 2022, meeting. Motion made by Commissioner Duda to approve the February 16, 2022, meeting minutes; the motion seconded by Commissioner Henke. The motion passed by vote 3-0.**
- (2) Inspect New Registration forms filed since November 9, 2021. Commissioners reviewed 200 new registration forms with zero discrepancies. Administrator Gray commented that we have approximately 184,000 registered voters in Williamson County.**
- (3) Adopt and approve the WCEC Budget for the upcoming fiscal year, 2022-2023. Administrator Gray advised the Commissioners that there may be an additional IT increase. County employees will receive a 2% pay raise. Administrator Gray advised that the County Commission is on notice that WCEC budget costs may increase due to a 2022 November election. Commissioner Duda praised the WCEC on its very efficient budget. He questioned if the cost of the proposed lease agreement for new voting equipment will impact this budget. Administrator Gray indicated it will not as this cost will be reimbursed later. Commissioner Duda made a motion to adopt and approve the WCEC Budget with noted adjustments; the motion was seconded by Commissioner Streiff. The motion passed by vote 5-0.**

New Business:

- (1) Approve the qualified candidates for the upcoming May 3, 2022, County Primary subject to the applicable provisions of T.C.A. 2-13-104. Administrator Gray commented that the whole process to the Division of Elections is March 3, 2022, for the parties (Democratic/Republican) to challenge if a candidate is a bona fide member of the Party. Only one candidate has been notified by the State Registry of Election Finance Division that he is not qualified to run due to a past due fine; the candidate is Andrew Dwight Jones, District 1. Commissioner Duda made a motion to approve the qualified candidates for the upcoming May 3, 2022, County Primary IAW provisions of T.C.A. 2-13-10r with the exception of Candidate Andrew Dwight Jones whose name will be removed from the list. Commissioner Graham seconded the motion; the vote passed by vote 5-0.**
- (2) Discuss/approve leasing agreement for the 2022/2023 Election Cycle with new prospective voting machine vendor. Administrator Gray discussed vendors with State Election officials. He obtained a quote from Election Systems & Software (ESS) a company which was part of the companies WCEC vetted prior to 2019 election equipment purchase. The lease would run through the City of Brentwood 2023 Election. Administrator Gray commented that he has**

received excellent support from ESS working through this process. The ESS equipment is similar to the Dominion equipment used since 2019. This system will work with our Voting Centers—Model DS200 Scanner and will require the lease amount of training for WCEC poll workers. This is the best option for the transition and this emergency purchase. Administrator Gray has provided Leslie Mitchell, County Purchasing Director and Bobby Cook, County Attorney related information on this emergency lease action and County Mayor Anderson is onboard as well. It was noted that WCEC can consider a number of options for future use and pursue request for proposals (RFP) and bid solicitations right after the November election. Administrator Gray was asked if there is a lease purchase option. He invited the representative from ESS, Cam Wilson to speak to the Commission. Mr. Wilson stated that ESS would consider this lease agreement towards a future purchase. He advised there will be a dedicated project manager. Chair Brown asked about any software issues similar to what we have previously experienced. Secretary Tre Hargett and Elections Coordinator Mark Goins were both complimentary of ESS. ESS was WCEC's second choice during the 2019 election equipment purchase action. Commissioner Duda stated for this type of contract are we operating under an emergency purpose. Administrator Gray stated there is a mechanism for a sole vendor. Cam Wilson commented that the Model DS200 Scanner has a very auditable process. Chair Brown noted we should anticipate hand counts being done more. Commissioner Duda noted we previously had a programming error and wanted to know what is ESS' process? Cam Wilson replied ESS has a team that works directly with the county and the state ballot proofing and conducting a lot of testing prior to the election. He stated ESS will be thorough. Chair Brown commented that WCEC had three different programmers. Cam Wilson said WCEC will have it's own programmer. Commissioner Duda asked about proprietary rights and if information is open to the public for review. Cam Wilson stated it would depend upon the request and it's the same throughout the industry. Commissioner Duda stated he would expect ESS working relationships to be better and wants to have a good working relationship with them. Commissioner Duda made a motion to approve the Election Systems & Software (ESS) leasing agreement rental term (March 1, 2022 – February 28, 2023) due to the emergency situation to acquire voting election equipment. Commissioner Henke seconded the motion: the motion passed 4-1.


- (3) Other Business: Chairman Brown invited comments from the guests. Speakers names are listed on the attached list. Speakers' comments are summarized:
- James Kiriazes advised he previously attended poll watcher training and was encouraged to become a poll worker. He commented that the WCEC office staff (no specific name given) thanked him for applying; however, he was discouraged because we had adequate number of workers already.
 - Linda Sherman representing the League of Women Voters of Williamson County (LWVWC) a statement to the Chairman and WCEC members. The League appreciates the consistent dedication to election integrity. Linda mentioned several members had worked the elections over the last 30 years. She commented that the LWVWC, League of Women Voters of Tennessee, and the United States strongly believes in empowering voters and making voting accessible. The LWVWC supports early voting and the usage of voting centers in Williamson County. She thanked WCEC for the opportunity to speak.
 - Sharon Spigel asked about the WCEC's system used to purge voting rolls. She stated that she hand-delivered the voter registration cards for six (6) people who previously lived at her address. Administrator Gray advised that purging of voter registration are conducted in accordance with Tennessee Election Laws 2-2-106 utilizing the US Postal Service and other data bases. When voter registration cards are returned the voter's status become inactive.

- Leigh Prickett stated he appreciated the decision to leave Dominion equipment. His background is in the IT field. He commented on the whole infrastructure around electronic voting systems. He encouraged WCEC to think outside the box when the request for proposals (RFP) process begins for a permanent solution. He doesn't trust machines and there are many opportunities to explore. Encouraged WCEC not to limit the scope of the process.
- Angela Becker did not wish to make any comments.
- Dan Laidlaw commented that he knows there is a short time for the current process (to acquire new voting equipment). He recommends WCEC look into the fourth quarter for long term solutions. He asked if the bar code is encrypted, and can anyone access it? He asked if the public could comment regarding the RFP process and that it would be appreciated. He wants to know who owns the ESS software, etc.? He asked the cost associated with the ESS lease and Chairman Brown advised that it is \$550,185.00.

(4) **Other Business:** Chairman Brown advised he had submitted his resignation to the State Elections Commission to become effective 2/25/2022. He will become the Campaign Manager for Beth Harwell for the 5th Congressional District. Chairman Brown stated how much he had enjoyed all years he spent first on the Davidson County Election Commission and for the last 20 years on the Williamson County Election Commission. Commissioner Duda praised Chairman Brown for an exceptionally well-done job serving on the WCEC and as Chairman. He thanked him for all of his dedicated work on the Commission. Chairman Brown introduced Donna Choate as his appointed replacement. He turned the meeting over to Phyliss Streiff, the senior Republican member on the WCEC to assume duties as Chair. Phyliss Streiff made a motion to appoint Jonathan Duda as WCEC Chairman. Commissioner Graham seconded the motion; the motion passed by vote 5-0.

(5) Commissioners agreed its next meeting will be Thursday, March 10, 2022 @ 4:00 p.m., Williamson County Administrative Complex, 1320 West Main Street, County Conference Room, Franklin, Tennessee.

There being no further business the WCEC meeting adjourned at 5:04 p.m.


Wanda Bruce Graham
Secretary

Attachments:

2/24/2022 Agenda

Copy of 2/24/2022 Meeting Speaker Sign-in Sheet

NOTE: Emails and Other Attachments as part of the 2/24/2022:

- Email dated 2/18/2022 – from Julie Nimmons, Subject: Election Commission Member Contacts to WCEC
- Email dated 2/20/2022 – from Linda Sherman, League of Women Voters Williamson County (LWVWC), Subject: League of Women Voters of Wm. Co. Letter
- Email dated 2/21/2022 -from Sandi Wells (District 7) forwarded via County Commissioner Paul Webb 2/23/2022, Subject: Voting Concerns
- Email dated 2/22/2022 – from Chad Gray, Election Administrator, Subject: Public Notice of Meeting/Ineligible Candidates
- Email dated 2/24/2022 – from Chad Gray, Election Administrator, Subject: Candidate Status

Williamson County Election Commission
405 Downs Blvd
Franklin, Tennessee 37064
(615) 790-5711
Fax (615) 790-5617
www.williamsonvotes.net



Robert D. Brown, Chairman
Wanda Bruce Graham, Secretary
Jonathan Duda, Member
Kim Henke, Member
Phyllis Streiff, Member
Chad Gray, Administrator of Elections

PUBLIC NOTICE

Notice is hereby given that the Williamson County Election Commission will meet on Thursday, February 24, 2022, at 4:00 p.m. at Williamson County Administrative Complex Auditorium, 1320 West Main Street, Franklin, Tennessee.

AGENDA

I. Old Business

- (1) Approve the Minutes from the February, 2022 meeting.
- (2) Inspect New Registration Forms filed since November 9, 2021
- (3) Adopt and Approve the Election Commission Budget for the upcoming fiscal year, 2022-2023

II. New Business

- (1) Approve the qualified candidates for the upcoming May 3, 2022, County Primary subject to the applicable provisions of T. C. A. § 2-13-104
- (2) Discuss/approve leasing agreement for the 2022/2023 Election cycle with new prospective voting machine vendor

III. Adjournment

WILLIAMSON COUNTY ELECTION COMMISSION MEETING SIGN-IN

[illegible]



wanda graham <wanda.bruce.graham@gmail.com>

Election Commission Member Contacts

Julie Nimmons <jinimmons@msn.com>

Fri, Feb 18, 2022 at 10:37 AM

To: Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Cc: Bob Brown <robbrown211@comcast.net>, "pastreiff@gmail.com" <pastreiff@gmail.com>, Kim Henke <kim@henkster.com>, wanda graham <wanda.bruce.graham@gmail.com>, "jonathan.duda@charter.net" <jonathan.duda@charter.net>

Many thanks for your assistance, Chad!

Dear Election Commission Members--

Thank you for your service to the voters of Williamson County! A great deal was learned in November 2020 concerning the importance of fair elections and environments where it is easy to vote.....hard to cheat.

Due to a schedule conflict, I was unable to attend the meeting on Thursday. However, my husband did attend and was very thorough in the observations he made. You have important decisions to be made for the upcoming elections. While the points I want to make may not be possible for the May primary, please give them serious consideration for the upcoming 2022 elections in August and November. They are:

- The use of ballots which are water-marked, therefore reproducible.
- No use of voting machines--only use ballot scanners.
- Reduce the number of days for early voting.
- Remove the county-wide ability to vote....go back to precincts. There will absolutely be a need for educating the public on this change. Once



Proverbs 3:5-6 NKJV

From: Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Sent: Friday, February 18, 2022 10:11 AM

To: jinimmons@msn.com <jinimmons@msn.com>

Cc: Bob Brown <robbrown211@comcast.net>; pastreiff@gmail.com <pastreiff@gmail.com>; Kim Henke <kim@henkster.com>; wanda graham <wanda.bruce.graham@gmail.com>; jonathan.duda@charter.net <jonathan.duda@charter.net>

Subject: Election Commission Member Contacts

They are copied on this email.

Bob Brown, Chairman
Wanda Bruce Graham, Secretary
Jonathan Duda, Member
Kim Henke, Member
Phyllis Streiff, Member

Chad Gray

Administrator of Elections
Williamson County Election Comm.
615-790-5800



wanda graham <wanda.bruce.graham@gmail.com>

FW: League of Women Voters of Wm. Co. Letter

Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Tue, Feb 22, 2022 at 11:29 AM

To: wanda graham <wanda.bruce.graham@gmail.com>, Bob Brown <robbrown211@comcast.net>, "pastreiff@gmail.com" <pastreiff@gmail.com>, Kim Henke <kim@henkster.com>, "jonathan.duda@charter.net" <jonathan.duda@charter.net>

From: Linda Sherman <lindasherman1910@gmail.com>

Sent: Sunday, February 20, 2022 7:13 PM

To: Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Subject: League of Women Voters of Wm. Co. Letter

Mr. Gray, please find attached a letter from the LWVWC to the WCEC in response to the 4:00 p.m. Feb. 17, 2022 WCEC meeting. Thank you for sending a copy to each of the Commission members. We look forward to attending again on Feb.24th.

Linda Sherman

LWVWC

[This message is From an EXTERNAL SENDER]



lwvwc logo.pdf

64K



February 21, 2022

Williamson County Election Commission
405 Downs Blvd.
Franklin, TN 37064

Re: WCEC 4 p.m. February 17, 2022 meeting, Adm. Complex Auditorium, Franklin

Dear Commissioners Chairman Robert Brown; Secretary Wanda Graham; members Jonathan Duda, Kim Henke, and Phyllis Streiff; Administrator Chad Gray:

The League of Women Voters of Williamson County is grateful for the privilege of attending WCEC meetings and learning about its work. Thank you for providing a larger, safer space for meetings. With the persistent hostile attempts to intimidate and control the Commission evidenced by some attendees, on-site Security staff is especially reassuring.

Several of us have been poll workers in Williamson County for decades. We have observed WCEC's unquestionable election integrity and laudable highest numbers of voter participants in our state. Mr. Gray's administration is efficient, responsible and responsive, assisting us whenever we have questions and need information. Creating more voting options with early voting, vote centers, and the combined electronic/paper backup ballots, have increased voter participation and satisfaction. We are nonplussed by claims to the contrary.

We plan to continue attending WCEC meetings and look forward to increasing our knowledge about the election process that roots Democracy. We credit Chairman Brown and the Commissioners' patience while listening to redundant remarks during public comment time. Your willingness to work for "40 cents an hour" which we suspect is an overestimate, is priceless. Thank you.

LWVWC members:

Rose Ballard

Angela Becker

Carol Bond

June Bond

Elaine Harrison

Bette Holmes

Bob Holmes

Linda Lee

Peg McCree

Linda Sherman

FW: voting concerns**Chad Gray** <Chad.Gray@williamsoncounty-tn.gov>

Wed, Feb 23, 2022 at 8:10 AM

To: Bob Brown <robbrown211@comcast.net>, "pastreiff@gmail.com" <pastreiff@gmail.com>, wanda graham <wanda.bruce.graham@gmail.com>, Kim Henke <kim@henkster.com>, "jonathan.duda@charter.net" <jonathan.duda@charter.net>

From: Paul Webb <Paul.Webb@williamsoncounty-tn.gov>**Sent:** Wednesday, February 23, 2022 7:53 AM**To:** Chad Gray <Chad.Gray@williamsoncounty-tn.gov>**Subject:** FW: voting concerns

fyi

From: wells46@lecorp.com <wells46@lecorp.com>**Sent:** Monday, February 21, 2022 4:18 PM**To:** Commissioners <Commissioners@williamsoncounty-tn.gov>**Subject:** voting concerns

I apologize commissioners for the previous email. I started an email with my thoughts and it automatically "Sent" before I was close to finishing, much less beginning!

As said, it has been a difficult time for all since the November 2020 elections. Many discrepancies have been found in our own voting system, and they are disturbing. Our legislators have bantered many different bills and continue to do so. Senator Jackson has shared on many public occasions that the Dominion machines would be replaced. As a resident who would like to have confidence in our system, I do ask you to please consider the following. I'm sure you have received many emails from residents relative to this because we ALL

want to feel secure.

- The use of ballots which are water-marked, therefore reproducible.
- No use of voting machines--only use ballot scanners.
- Reduce the number of days for early voting.
- Remove the county-wide ability to vote....go back to precincts. There will absolutely be a need for educating the public on this change.

Thank you for your consideration.

Sandi Wells

D-7



wanda graham <wanda.bruce.graham@gmail.com>

Public Notice of Meeting/Ineligible Candidates

Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Tue, Feb 22, 2022 at 3:28 PM

To: Bob Brown <robbrown211@comcast.net>, wanda graham <wanda.bruce.graham@gmail.com>, "pastreiff@gmail.com" <pastreiff@gmail.com>, "jonathan.duda@charter.net" <jonathan.duda@charter.net>, Kim Henke <kim@henkster.com>

The candidate is Andrew Dwight Jones.

From: Chad Gray

Sent: Tuesday, February 22, 2022 3:24 PM

To: Bob Brown <robbrown211@comcast.net>; wanda graham <wanda.bruce.graham@gmail.com>; pastreiff@gmail.com; jonathan.duda@charter.net; Kim Henke <kim@henkster.com>

Subject: Public Notice of Meeting/Ineligible Candidates

See attached

Also, one of our County Commission candidates is ineligible to seek election because of an outstanding civil penalty owed to the Registry of Election Finance.

See the list.

Chad Gray

Administrator of Elections

Williamson County Election Comm.

615-790-5800

REGISTRY OF ELECTION FINANCE

Persons Ineligible to Qualify

| Name | Case No | Report Owed | Penalty Owed | County |
|---------------------------|---------|-----------------------------------|--------------|------------|
| Hathaway, Quintessa | 06-74 | | 10,000.00 | Davidson |
| Hathaway, Quintessa | 07-42 | | 10,000.00 | Davidson |
| Hayes, David | 21-32 | nual Mid-Year Supplemental 2021 C | 10,000.00 | Knox |
| Henry, Willie | 01-08 | Pre-Election 2000 CFD | 1,000.00 | Shelby |
| Herren, James E. | | Post-General 2002 CFD | | Davidson |
| Hickey, Patrick | 16-13 | | 15,000.00 | Hamilton |
| Hooks, Janet | 01-72 | Annual Supplemental 2000 CFD | | Shelby |
| Hower, Chad Z. | 02-14 | Annual Supplemental 2001 CFD | | Hawkins |
| Hudgins, Faith | | | 75.00 | Knox |
| Hudson, Keith | 19-65 | | 500.00 | Williamson |
| Johnson, Dan | 02-29 | | 100.00 | Anderson |
| Johnson, Kennedy Spellman | 14-54 | | 250.00 | Rutherford |
| Johnson, Kennedy Spellman | 14-55 | | 250.00 | Rutherford |
| Jones, Andrew Dwight | 18-37 | Pre-Primary 2018 CFD | 10,000.00 | Williamson |
| Jones, Chris | | Year-End Supplemental 2013 CFD | | Knox |
| Kabir, Ovi | 21-33 | nual Year-End Supplemental 2020 C | 10,000.00 | Knox |
| Kirk, Leah | 13-21 | | 10,000.00 | Sullivan |
| Kleis, Lisa | 08-44 | | 50.00 | Davidson |
| Klingberg, Kevin | 11-06 | | 10,000.00 | Cumberland |
| Klingberg, Kevin | 11-22 | | 10,000.00 | Cumberland |
| Knight, C. Adam | 02-55 | Post-Primary 2002 CFD | 10,000.00 | Sullivan |
| Lane, Steve | | Mid-Year Supplemental 2017 CFD | | Rutherford |
| Lane, Steve | | Year-End Supplemental 2017 CFD | | Rutherford |
| Lane, Steve | 16-71 | | 10,000.00 | Rutherford |
| Lawrence, Ken | 19-14 | | 250.00 | Davidson |
| Lewis, Clifford | 14-01 | | 50.00 | Shelby |
| Lewis, Clifford | 14-18 | 4th Quarter 2013 CFD | 100.00 | Shelby |
| Light, Michael David | 07-76 | Mid-Year Supplemental 2007 CFD | | Sullivan |
| Lindsey, Paula G. | 16-76 | | 10,000.00 | Maury |
| Marks, Meyer | | Post-Primary 1998 CFD | | Davidson |
| Marks, Meyer | | Pre-Primary 1998 CFD | | Davidson |
| Marshall, James | | Post-Primary 2002 CFD | | Maury |
| Martin, Shawn | | Pre-Primary 2002 CFD | | Sullivan |
| Martin, Shawn | | Post-Primary 2002 CFD | | Sullivan |
| Mayo, Verline | 92-24 | | 2,500.00 | Shelby |



wanda graham <wanda.bruce.graham@gmail.com>

FW: Candidate Status

Chad Gray <Chad.Gray@williamsoncounty-tn.gov>

Thu, Feb 24, 2022 at 11:52 AM

To: Bob Brown <robbrown211@comcast.net>, "jonathan.duda@charter.net" <jonathan.duda@charter.net>, "pastreiff@gmail.com" <pastreiff@gmail.com>, Kim Henke <kim@henkster.com>, wanda graham <wanda.bruce.graham@gmail.com>

See attached. The candidate has been contacted numerous times about this issue.

From: Chad Gray

Sent: Tuesday, February 22, 2022 4:09 PM

To: Dwight Jones <Dwight.Jones@williamsoncounty-tn.gov>

Subject: Candidate Status

Chad Gray

Administrator of Elections

Williamson County Election Comm.

615-790-5800



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437K

Williamson County Election Commission
405 Downs Blvd
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www.williamsonvotes.net



Robert D. Brown, Chairman
Wanda Bruce Graham, Secretary
Jonathan Duda, Member
Kim Henke, Member
Phyllis Streiff, Member
Chad Gray, Administrator of Elections

MEMORANDUM

TO: Andrew Dwight Jones

FROM: Chad Gray, *CG*
Administrator of Elections

DATE: February 24, 2022

RE: Candidate Qualification Status

This notification is to inform you that you may not seek election as a candidate for any elected office in any upcoming election due to an outstanding civil penalty imposed by the Tennessee Registry of Election Finance, pursuant to T.C.A § 2-10-110 (c)(2)

For more information, please contact the Tennessee Registry of Election Finance at (615) 741-7959.

The Registry of Election Finance has the authority to impose civil penalties against a candidate for failing to file a statement on time and ignoring subsequent warnings about the required report. The Registry also has the authority to impose civil penalties for other violations. T.C.A. § 2-10-207(5) and T.C.A. § 2-10-207(6)

CLASS ONE (1) OFFENSES. The Registry may impose class one (1) civil penalties of twenty-five dollars (\$25) a day up to a maximum of seven hundred fifty dollars (\$750) for the late filing of any campaign financial disclosure report required to be filed either with the Registry or the county election commission. The law sets specific procedures that must be followed whenever the Registry or a county election commission discovers that a required report has not been filed. T.C.A. § 2-10-110(a)(1)

The Registry staff or the county election commission, whichever office should have received a required campaign financial disclosure statement, must notify the candidate or committee by personal service or by return receipt requested mail that the report has not been received and that civil penalties of twenty-five dollars (\$25) a day will begin to accrue five (5) days after receipt of the notice until the report is filed or for thirty (30) days, whichever occurs first. T.C.A. § 2-10-110(a)(1)(A) and T.C.A. § 2-10-110(a)(1)(B)

A candidate that files the required report within that five-day grace period will not be subject to civil penalties.

CLASS TWO (2) OFFENSES. The Registry also has the authority to impose civil penalties of up to ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, whichever is greater for a class two (2) offense involving both state and local elections. A class two offense is the failure to file a report within thirty-five (35) days of service of notice of a delinquent report or any other violation of the Campaign Financial Disclosure Act. T.C.A. § 2-10-110(a)(2)

The law requires the Registry staff to send an assessment letter to the candidate before any class two (2) civil penalties are imposed by the Registry, advising the candidate or committee of the factual basis of the

violation, the maximum penalty and the date that a response must be filed. T.C.A. § 2-10-110(a)(2)

VIOLATIONS OF THE CAMPAIGN CONTRIBUTIONS ACT OF 1995. The Registry is empowered to impose a maximum civil penalty of not more than ten thousand dollars (\$10,000) or one hundred fifteen percent (115%) of the amount of all contributions made or accepted in excess of the limitations of the Act, whichever is greater. T.C.A. § 2-10-308(a)

A campaign contribution made or accepted in excess of the limitations of this Act shall not be a violation if the candidate refunds or returns the contribution to the person making the contribution within sixty (60) days of its receipt. T.C.A. § 2-10-307(b)

CONTESTED PENALTIES. To appeal any penalty imposed by the Registry, a candidate or committee must file a petition with the Registry within thirty (30) days after the date that the order is issued. An assessment order issued by the Registry becomes final and cannot be appealed thirty (30) days after it has been issued. T.C.A. § 2-10-308(c), T.C.A. § 2-10-308(d), Rule 0530-1-1-.12(3) and Rule 0530-1-1-.12(4)

If a candidate does not pay assessed civil penalties within thirty (30) days of an assessment order becoming final or by the qualifying deadline for election, whichever is earlier, the candidate shall be ineligible to qualify as a candidate in any upcoming elections until the assessed penalties and related costs are paid. T.C.A. § 2-10-110(c)(2)

Williamson County
Proposed Budget Detail
2022-2023

2/24/2022 12:21:48 PM
 Chad Gray

| Account | LY Actual | CY Orig Budget | CY Rev Budget | Bdgt Cmnt Proposed | Req Type | Description | Justification |
|----------------------------------|--------------|-------------------|------------------|-----------------------|-------------|---|---------------|
| 101 GENERAL FUND | | | | | | | |
| 51600 ELECTION COMMISSION | | | | | | | |
| 510100 CO OFFICIAL/ADMIN OFFICER | 116,685.70 | 121,514.00 | 121,514.00 | 124,031.00 | C | FY23 2% increase | |
| TOTAL CO OFFICIAL/ADMIN OFFICER | \$115,685.70 | \$121,514.00 | \$121,514.00 | \$124,031.00 | 2.1% ▲ | | |
| 510300 ASSISTANT(S) | 196,394.37 | 257,356.00 | 269,046.00 | 267,356.00 | C | | |
| TOTAL ASSISTANT | \$196,394.37 | \$257,356.00 | \$269,046.00 | \$267,356.00 | 0.0% | | |
| 516800 TEMPORARY PERSONNEL | 208,281.63 | 63,059.00 | 63,059.00 | 63,059.00 | C | | |
| TOTAL TEMPORARY PERSONNEL | \$208,281.63 | \$63,059.00 | \$63,059.00 | \$63,059.00 | 0.0% | | |
| 516900 PART-TIME PERSONNEL | 66,292.55 | 36,586.00 | 37,626.00 | 36,586.00 | C | | |
| TOTAL PART-TIME PERSONNEL | \$66,292.55 | \$36,586.00 | \$37,626.00 | \$36,586.00 | 0.0% | | |
| 518600 LONGEVITY PAY | 1,800.00 | 2,150.00 | 2,150.00 | 2,300.00 | C | Longevity service 5+years @\$50/yr | |
| TOTAL LONGEVITY PAY | \$1,800.00 | \$2,150.00 | \$2,150.00 | \$2,300.00 | 7.0% ▲ | | |
| 518700 OVERTIME PAY | 67,545.84 | 14,761.00 | 14,761.00 | 14,761.00 | C | | |
| TOTAL OVERTIME PAY | \$67,545.84 | \$14,761.00 | \$14,761.00 | \$14,761.00 | 0.0% | | |
| 519200 ELECTION COMMISSION | 3,965.00 | 7,200.00 | 7,200.00 | 7,200.00 | | | |
| TOTAL ELECTION COMMISSION | \$3,965.00 | \$7,200.00 | \$7,200.00 | \$7,200.00 | 0.0% | | |
| 519300 ELECTION WORKERS | 173,361.32 | 83,640.00 | 83,640.00 | 83,640.00 | C | | |
| TOTAL ELECTION WORKERS | \$173,361.32 | \$83,640.00 | \$83,640.00 | \$83,640.00 | 0.0% | | |
| 530200 ADVERTISING | 8,952.29 | 10,000.00 | 10,000.00 | 10,000.00 | C | Covers costs associated with the publication of the required public notices/election signage. | |
| TOTAL ADVERTISING | \$8,952.29 | \$10,000.00 | \$10,000.00 | \$10,000.00 | 0.0% | | |
| 530700 COMMUNICATION | 1,747.07 | 3,000.00 | 3,000.00 | 3,000.00 | C | Expenses related to land line and cellular telephones | |
| TOTAL COMMUNICATION | \$1,747.07 | \$3,000.00 | \$3,000.00 | \$3,000.00 | 0.0% | | |
| 532000 DUES AND MEMBERSHIPS | 0.00 | 5,100.00 | 5,100.00 | 5,100.00 | C | Covers costs associated with professional organizations and training. | |
| TOTAL DUES AND MEMBERSHIPS | \$0.00 | \$5,100.00 | \$5,100.00 | \$5,100.00 | 0.0% | | |
| 532700 FREIGHT EXPENSES | 27,018.00 | 16,000.00 | 16,000.00 | 16,000.00 | C | Expenses with transporting voting machines/equipment | |
| TOTAL FREIGHT EXPENSES | \$27,018.00 | \$16,000.00 | \$16,000.00 | \$16,000.00 | 0.0% | | |
| 533000 OPERATING LEASE PAYMENTS | 10,343.71 | 7,500.00 | 7,500.00 | 7,500.00 | C | Covers the lease of copy machine/postage meter | |
| TOTAL OPERATING LEASE PAYMENTS | \$10,343.71 | \$7,500.00 | \$7,500.00 | \$7,500.00 | 0.0% | | |

101 GENERAL FUND

WILLIAMSON COUNTY ELECTION COMMISSION
Supplemental Operational Budget
2022-2023
November 2022

| <u>Line Item No</u> | <u>Category</u> | <u>Amount</u> |
|---------------------|-----------------------------|--------------------------|
| 101.51500.516800 | Temporary Personnel | 80,000.00 |
| 101.51500.516900 | Part-time Personnel | 40,000.00 |
| 101.51500.518700 | Overtime | 30,000.00 |
| 101.51500.519300 | Election Workers | 100,000.00 |
| | Subtotal Salaries | 250,000.00 |
| 101.51500.530200 | Advertising | 25,000.00 |
| 101.51500.532700 | Freight Expenses | 30,000.00 |
| 101.51500.533600 | Maintenance & Repair-Voting | 40,000.00 |
| 101.51500.533700 | Maintenance & Repair-Office | 35,000.00 |
| 101.51500.534800 | Postal Charges | 20,000.00 |
| 101.51500.534900 | Printing | 40,000.00 |
| 101.51500.543500 | Office Supplies | 15,000.00 |
| 101.51500.559900 | Other | 5,000.00 |
| | Subtotal Operations | <u>210,000.00</u> |
| | <u>TOTAL</u> | 460,000.00 |



11208 JOHN GALT BLVD
OMAHA, NE 68137-2364
(402) 593-0101

Rental Agreement

Sales Quotation #: N/A

Covered Election: All Elections During the Term of the Agreement

Estimated Delivery Date: March 2022

Customer Contact, Title: Chad Gray - Administrator of Elections

Phone Number: 615-790-5711

Customer Name: Williamson County, Tennessee

Fax Number: N/A

Type of Rental Equip: ☒ **NEW** ☐ **REFURBISHED**

Rental Term: **March 1, 2022 through February 28, 2023**

Bill To:
Williamson County, Tennessee
Chad Gray - Administrator of Elections
405 Downs Blvd.
Franklin, TN 37064

Ship To:
Williamson County, Tennessee
Chad Gray - Administrator of Elections
405 Downs Blvd.
Franklin, TN 37064

| Item | Description | Qty | Price | Total |
|--------------------|-------------------|-----|-------------|--------------|
| 1 | DS200 | 70 | \$2,186.00 | \$153,020.00 |
| 2 | DS200 | 70 | \$80.00 | \$5,600.00 |
| 3 | ExpressVote BMD | 200 | \$1,060.00 | \$212,000.00 |
| 4 | ExpressVote BMD | 200 | \$50.00 | \$10,000.00 |
| 5 | Software | 1 | \$6,200.00 | \$6,200.00 |
| 6 | Third Party Items | 1 | \$500.00 | \$500.00 |
| 7 | DS200 | 70 | \$115.00 | \$8,050.00 |
| 8 | ExpressVote BMD | 200 | \$105.00 | \$21,000.00 |
| 9 | Services | 45 | \$1,795.00 | \$80,775.00 |
| 10 | Services | 1 | \$1,795.00 | \$1,795.00 |
| 11 | Services | 1 | \$1,795.00 | \$1,795.00 |
| 12 | Services | 6 | \$4,975.00 | \$29,850.00 |
| 13 | Shipping | 1 | \$19,600.00 | \$19,600.00 |
| Rental Order Total | | | \$ | 550,185.00 |

Freight Billable: yes ☒ no ☐

Cam Wilson

Regional Sales Manager

Customer Signature

Date

V.P. of Finance

Date

Title

Payment Terms

\$55,019.00 of Order Total will be invoiced upon Contract Execution.

\$495,166.00 of Order Total will be invoiced as Tabulation, BMD Equipment and Software are provided to Customer.

Delays in payment due to no fault of ES&S will be subject to interest charges in the maximum amount permitted by applicable law.

Invoices are due net 30 from invoice date.

In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.

Any applicable state and local taxes are not included, and are the responsibility of Customer.

A Rental Cancellation Fee of 10% of the Rental Order Total shall apply in the event the Customer does not provide written notification to ES&S of its intent to cancel an Election at least forty-five (45) days prior to the scheduled Election covered under this Agreement.

Return of Rental Equipment

ES&S shall provide the Customer with a Return Materials Authorization ("RMA") form which shall set forth all of the equipment and software to be returned upon the expiration or earlier termination of the Agreement. The Customer shall use this form when returning the equipment and software and label all boxes with the RMA number provided.

Customer shall be responsible for packaging and readying the equipment and software for return to ES&S by utilizing the original boxes and packing materials to return the equipment and software to ES&S. In the event the Customer requires ES&S to provide new boxes and packing material for return of the equipment and software, such items will be invoiced to Customer separately and shall be due and payable upon receipt of ES&S' invoice by Customer.

Customer is responsible for returning all equipment and other non-consumable items set forth above to ES&S upon the expiration or earlier termination of the Agreement. In the event the Customer fails to return any such equipment and/or non-consumable items upon the expiration or earlier termination of the Agreement, Customer shall pay ES&S at ES&S' then current rates for such equipment and/or non-consumable items which have not been returned to ES&S less any rental fees previously paid by Customer for such equipment and/or non-consumable items which have not been returned. ES&S shall invoice the Customer separately for any unreturned items and such invoice shall be due and payable upon receipt of ES&S' invoice by Customer.

SEE GENERAL TERMS AND CONDITIONS

GENERAL TERMS

1. **Rental/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to rent and/or license, and Customer agrees to rent and/or license, the ES&S Equipment, ES&S Software and ES&S Firmware described on the front side of this Agreement during the Rental Term as defined in Section 10 below. The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The rental payment terms for the ES&S Equipment and ES&S Software are set forth on the front side of this Agreement. Title to the ES&S Equipment and ES&S Software shall, at all times, remain with ES&S. The consideration for ES&S' grant of the license during the Rental Term for the ES&S Firmware is included in the cost of the ES&S Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and related Documentation in the Jurisdiction during the Rental Term. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction during the Rental Term.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. **Term of Licenses.** The licenses granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue during the Rental Term. ES&S may terminate either license if Customer fails to pay the rental fees when due, or breaches Sections 2, 3, or 9 with respect to, such license. Upon the termination of either of the licenses granted in Section 2 for ES&S Software or upon the expiration of the Rental Term, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S. Customer shall not use the ES&S Equipment for any purpose other than those for which it was designed and shall not, without the prior written consent of ES&S, alter the ES&S Equipment or affix to or install on the ES&S Equipment any accessory, equipment or device which was not supplied to it by ES&S. Customer shall not move the ES&S Equipment from the place where it was originally installed, unless such ES&S Equipment is to be used at various polling places throughout the Jurisdiction, without ES&S' prior written consent. Customer shall make the ES&S Equipment and any records pertaining thereto available to ES&S during regular business hours for inspection. Customer will not, without the prior written consent of ES&S and subject to such conditions as ES&S may impose for its protection, affix any item of ES&S Equipment to any real property if, as a result thereof, such item of ES&S Equipment will become a fixture under applicable state law.

6. **Installation.** The front side of this Agreement specifies the items of ES&S Equipment or ES&S Software, if any, which ES&S' employees, agents or authorized representatives ("Representatives") will install at Customer's designated site. Customer shall pay ES&S a fee for such installation services, as set forth on the front side of this Agreement. Customer will provide, at its own expense, a site adequate in space and design for installation and operation of the ES&S Equipment and ES&S Software. Customer shall be responsible for providing a site that is temperature and humidity controlled, has all necessary electric current outlets, circuits, and wiring for the ES&S Equipment and ES&S Software, and has electric current of sufficient quality and quantity to operate the ES&S Equipment and ES&S Software. ES&S may, but shall not be required to, inspect the site and advise on its acceptability before any ES&S Equipment or ES&S Software is installed. Customer shall be responsible for installing all items of equipment or software not installed by ES&S, in accordance with the instructions furnished in the Documentation. ES&S shall have no liability for actual site preparation or for any costs, damages or claims arising out of the installation of any ES&S Equipment or ES&S Software by Customer.

7. **Warranty.**

a. **ES&S Equipment/ES&S Software.** ES&S warrants that during the Rental Term (the "Warranty Period"), it will repair or replace, at Customer's designated location or at ES&S' designated location, as determined by ES&S in its sole discretion, any component of the ES&S Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the ES&S Equipment, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. Any repaired or replaced item of ES&S Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Equipment or ES&S Software will become the property of ES&S. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect, (ii) the ES&S Equipment or

ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the ES&S Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (iv) Customer has installed and is using the most recent update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.

b. **System.** ES&S warrants that the ES&S Equipment and ES&S Software will operate in conjunction with the third-party items during the Warranty Period, provided that the third-party items are performing in accordance with their own specifications and documentation in all material respects and are not defective in material or workmanship. In the event of a breach of this warranty, ES&S will repair or replace the item of ES&S Equipment or ES&S Software that is causing such breach to occur. Customer acknowledges that ES&S has merely purchased the third-party items for resale or rental to Customer, and that the proprietary and intellectual property rights to the third-party items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the rental payments to ES&S for the third-party items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the third-party items which are provided to ES&S.

c. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 7(a) or 7(b), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY EQUIPMENT, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Equipment or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, the design and configuration of the ES&S Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

10. **Rental Term.** The period during which Customer shall rent the ES&S Equipment and license the ES&S Software from ES&S shall be in effect from **March 1, 2022 through February 28, 2023**, unless earlier terminated pursuant to this Agreement (the "Rental Term").

11. **Termination.** The Rental Term shall terminate upon the first to occur of the following (i) a breach of any material provision herein which has not been cured by the breaching party within thirty (30) days after it receives written notice of the breach from the non-breaching party (except a breach as provided in (iii) below which will require no notice); (ii) either party's providing thirty (30) days' prior written notice to the other party hereto of its desire to terminate the Rental Term; or (iii) Customer's failure to make any rental payment due hereunder within sixty (60) days after it is due. In the event of a termination by the Customer in accordance with Section 11(ii) above, Customer hereby agrees to promptly pay ES&S for all costs incurred and deliverables provided by ES&S through the effective date of such termination, including, but not limited to, any equipment and software delivered, shipping costs incurred, and services performed. No later than ten (10) calendar days following the termination of the Rental Term, Customer shall release the ES&S Equipment and ES&S Software to ES&S at its own expense and in the same operation, order, repair, condition and appearance as when received, subject to normal wear and tear. In the event Customer fails to release the ES&S Equipment and ES&S Software to ES&S no later than ten (10) calendar days following the termination or expiration of the Rental Term, Customer shall pay to ES&S a late return charge in the amount of \$500.00 per calendar day until the ES&S Equipment and ES&S Software is returned to ES&S in accordance herewith.

12. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or

the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

13. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

14. **Export.** Customer acknowledges that the laws and regulations of the United States may restrict the export of certain commodities and technical data of United States origin, including the Software, in any medium. Customer agrees that it shall not export the Software or the Documentation in any form without the appropriate United States and foreign government licenses.

15. **Entire Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(c), 8-11, 12(b), 13, 14 and 15 of these General Terms shall survive the termination of this Agreement, to the extent applicable.